

("Carpenter") is an individual residing at 15 Merefield Road, New Rochelle, New York.

3. Upon information and belief, Counterclaim-Defendant Kimberly A. Carpenter
 2. Eiffel is in the business of real estate sales and development.
- Florida.

Florida limited liability company with an address at 8266 Sawpine Road, Delray Beach,

1. Third-Party Eiffel Investment Group and Associates LLC ("Eiffel"), is a Lazer, Aptheker, Rosella & Yedid, P.C., alleges as follows:

Third-Party Plaintiff Eiffel Investment Group and Associates LLC, by its attorneys,

X-----

Third-Party Defendants.

PROPERTY DEVELOPMENT, LLC,

BLOCK AND SUPPLY CORP., and HORIZON REAL
ACK LAND DEVELOPMENT, LLC, FAIRVIEW

**THIRD-PARTY
COMPLAINT**

- against -

Third-Party Plaintiff,

EIFFEL INVESTMENT GROUP AND
ASSOCIATES, LLC,

X-----

Defendants.

CIVIL ACTION NO. 07-CIV-5689
(UALMS)

MARIE PUKE and EIFFEL INVESTMENT GROUP
AND ASSOCIATES, LLC,

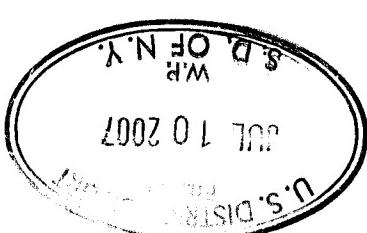
- against -

Plaintiffs,

SUPERIOR WALLS OF THE HUDSON VALLEY,
JR., ARTHUR ACKERT, SR., DENNIS LORE, and

KIMBERLEY A. CARPENTER, ARTHUR ACKERT,
X-----

SOUTHERN DISTRICT OF NEW YORK
UNITED STATES DISTRICT COURT



- were and continue to be the principals of Horizon, Fairview, ACK and Superior.
11. Upon information and belief, Counterclaim-Defendants Lore and Ackert Jr.,
Violet Avenue, Poughkeepsie, New York.
- Development LLC ("Horizon") is a New York limited liability company with an office at 68
10. Upon information and belief, Third-Party Defendant Horizon Real Property
maintained an office at 68 Violet Avenue, Poughkeepsie, New York.
- Supply Corp. ("Fairview") is currently an inactive New York corporation that previously
9. Upon information and belief, Third-Party Defendant Fairview Block and
Violet Avenue, Poughkeepsie, New York.
- Development, LLC ("ACK") is a New York limited liability company with an office at 68
8. Upon information and belief, Third-Party Defendant ACK Land
Avenue, Poughkeepsie, New York.
- Hudson Valley, Inc. ("Superior") is a New York corporation with an office at 68 Violet
7. Upon information and belief, Counterclaim-Defendant Superior Walls of the
an individual residing at 136 Moonlight Drive, Stormville, New York.
6. Upon information and belief, Counterclaim-Defendant Dennis Lore ("Lore") is
("Ackert Jr.") is an individual residing at 13 Kilm琳 Court, Poughkeepsie, New York.
5. Upon information and belief, Counterclaim-Defendant Arthur Ackert Jr.
in good standing.
4. Upon information and belief, Carpenter is a member of the New York State bar

- was to be held in escrow by the law firm of Maynard, O'Connor, Smith & Catalinotto, LLP. \$1,200,000. Upon the signing of the June 12, 2006 contract by seller's attorney, \$120,000 17. Pursuant to the June 12, 2006 contract, the purchase price of Parcel I was Carpenter.
16. ACK was represented in the transaction by Counterclaim-Defendant Contract I").
- purchase of 100 acres of land in the Town of Saugerties, County of Ulster ("Churchland sellers, entered into a contract with Third-Party Defendant ACK, as purchaser, for the John R. Addizzo, MD IRA and for Amaticia Addizzi, IRA of Staten Island, New York, as 15. In or about June 12, 2006, Independence Community Bank as custodian for

Contract for Parcel I

THE CHURCHLAND PROPERTIES

- amount in controversy under 28 U.S.C. Section §1332.
14. This Court has jurisdiction over this matter based on diversity of citizenship and Horizon, Fairview, ACK and Superior to further their scheme to defraud Eiffel.
13. Upon information and belief, Lore and Ackert Jr. acted under the guise of themselves from personal liability.
12. Upon information and belief, Counterclaim-Defendants Lore and Ackert Jr. used these companies interchangeably to conduct business and in an attempt to insulate

- receiving a return of its down payment or proceeding to closing without such approval.
- subdivision, purchaser would have the option of declaring the contract null and void and
24. In the event the purchaser was unable to obtain approval of at least a 40-lot subdivision was feasible. If it was determined not to be feasible purchaser would have the right to return of all amounts paid under the contract.
- contract to perform inspections necessary to determine if an application for at least a 40-lot
23. Purchaser had a period of 90 days from receipt of an executed copy of the
22. Upon information and belief, no such approval could ever have been obtained.
21. No such approval was obtained by that date.
- 2006.
- from the Town of Saugerties for a 40-lot subdivision for the 100-acre parcel by December 1,
20. The Churchland Contract I was conditioned upon purchaser obtaining approval
- upon the sale of each lot.
19. Pursuant to the June 12, 2006 contract, AACK agreed to pay the seller \$29,200
- acreage was found to be more or less than 100 acres.
18. The purchase price of the parcel was to be adjusted if, upon a survey, the
- accordance with the contract.
- Upon information and belief, Third-Party Defendant AACK deposited this sum in

- right to return of all amounts paid under the contract.
- subdivision was feasible. If it was determined not to be feasible purchaser would have the contract to perform inspections necessary to determine if an application for at least a 20-lot 30. Purchaser had a period of 90 days from receipt of an executed copy of the 29. Upon information and belief, no such approval could ever have been obtained. 28. No such approval was obtained by that date.
- 1, 2006.

Town of Saugerties for a 20-lot subdivision for the parcel for a 100 acre parcel by December 27. The contract was conditioned upon the purchaser obtaining approval from the ACCK deposited this sum in accordance with the contract.

be held in escrow by seller's attorney. Upon information and belief, Third-Party Defendant Carpenter, Churchland Contract II provided that upon signing the contract, \$61,200 was to 26. ACK was represented in the transaction by Counterclaim-Defendant Contract II").

the Town of Saugerties, County of Ulster consisting of plus/minus 51 acres ("Churchland with ACK, as purchaser, in the amount of \$612,000 for purchase of a second property in John R. Addizzo, M&D IRA and Amaticia Addizzi, IRA, as sellers, entered into a contract 25. On or about June 12, 2006, Independence Community Bank as custodian for

Contract for Parcel II

37. L'ore represented to Eiffel that it could resell each lot for approximately \$100,000.
36. During the meeting, L'ore expressed how lucrative each of the properties were would develop the properties themselves had they not been involved in too many other and stated that he and his partners, Counterclaim-Defendant Ackert Jr. and Arthur Ackert Sr. projects.
35. During their meeting, L'ore represented to Eiffel that his engineers had expected both Parcel I and Parcel II (together the "Churchland Properties") and that he could inspect particular properties that L'ore had under contract.
34. On or about July 21, 2006, Mr. Pupke met with L'ore to learn more about recommended by a friend.
33. Having little knowledge of the New York real estate market, Mark Pupke, a principal of Eiffel, made arrangements to meet with real estate agent L'ore, who had been developing in upstate New York.
32. In or about July of 2006, Eiffel, a Florida company, decided to look for land to receiving a return of its down payment or proceeding to closing without such approval.

- ## THE CHURCHLAND ASSIGNMENT
31. In the event the purchaser was unable to obtain approval of at least a 20-lot subdivision, purchaser would have the option of declaring the contract null and void and

45. AACK was represented by Carpenter.
- Churchland Contracts.
- Lore, Ackert Jr. and Ackert Sr. were partners, for the assignment of AACK's interest in the into an assignment agreement ("Churchland Assignment"), with AACK, an entity in which
44. On or about August 14, 2006, based on Lore's representations, Eiffel entered partner, Ackert, Jr., was Carpenter's sister.
43. During the course of these discussions Lore failed to advise Eiffel that his paid by Eiffel would be held in escrow by Carpenter pending subdivision approval.
42. During the course of this meeting, Lore represented to Mr. Pupke that all money Jr. would still remain fully responsible for completing the subdivision approval process.
41. Lore represented to Eiffel that if Eiffel took over the contracts Lore and Ackert approvals from the Town of Saugerties to allow the subdivision of this property.
40. Lore told Mr. Pupke that it would take one year for to receive full Contracts.
- \$181,200 into the seller's escrow account in accordance with the terms of the Churchland
39. In addition, Lore represented that he and his partners had already disbursed with the purchase of these lots.
- subdivision approval was obtained, Eiffel could "clear" five million dollars (\$5,000,000.00) 38. Lore also represented that if Eiffel were to develop the property after

- the escrow deposit being held by sellers' counsel was now the property of Eiffel.
52. Upon information and belief, Carpenter did not notify the seller's counsel that Carpenter did not notify the seller's counsel of the assignment.
51. Fully assignable with the seller's permission.
- from the purchaser's attorney certifying the validity of the contract and that the contract is Carpenter's escrow account to be disbursed to ACK upon the receipt of a certification letter
50. Upon the execution of the assignment Eiffel paid \$100,000 in certified funds to approval, and ultimately obtain final approval from the Town for a 120-lot subdivision.
49. Pursuant to the terms of the Churchland Assignment, ACK retained full subdivision with the town, retain all engineers, surveyors, etc. necessary to pursue the properties. The Churchland Assignment contemplated that ACK would apply for the responsibility for doing all acts necessary to obtain subdivision approval for the Churchland
48. Pursuant to the terms of the Churchland Assignment, Eiffel was to pay ACK the sum of \$300,000 and the \$181,200 ACK had already paid in escrow to the seller became the property of Eiffel.
47. Based on the foregoing, Eiffel did not retain counsel to represent it in the transaction.
46. Lorie represented to Eiffel that the transaction would run more smoothly if the parties did not retain counsel.

Upon information and belief, Fairview paid the down payment, attorney for seller. The balance of \$425,000 was to be paid in cash or bank check at closing. Contract. The \$25,000 down payment was to be held in escrow by George Redder, Esq., additional \$20,000 down payment was to be made upon the signing of the Lauren Tiec 56. An initial earnest money deposit in the amount of \$5,000 was to be paid and an of Ulster ("Lauren Tiec Property"). The purchase price of the property was \$450,000. for the purchase of 80 acres of land on Lauren Tiec Road in the Town of Saugerties, County as seller, entered into a contract of sale with Third-Party Defendant Fairview, as purchaser, 55. By contract dated January 13, 2006 ("Lauren Tiec Contract"), Norman Heese, proceeded to closing without such approval.

THE LAUREN TIEC PROPERTY

ACK was required to return all of Eiffel's deposits immediately upon request or (b) to 60-lot subdivision then Eiffel had the right: (a) to declare the agreement null and void and 120-lot subdivision and that in the event it was unable to obtain final approval for a 54. The Churchill Assignment further provided that ACK was to apply for a approval, whichever was first.

(60) days of preliminary approval of the subdivision by the planning board or upon final subdivision by the planning board. The second payment of \$100,000 was due within sixty payment of \$100,000 was due within sixty (60) days of conceptual approval of the 53. The balance of the \$200,000 was to be paid in certified funds. The first

- and Clermont deals.
64. Fairview represented that it had \$107,500 in escrow between the Lauren Tiee standing and that the contract was fully assignable.
63. Carpenter submitted two letters to Eiffel representing that Fairview was in good standing that he would be able to obtain an approval for a 25-lot subdivision on the Lauren Tiee property.
62. Lore represented to Eiffel that he was advised by his engineer on the project lots.
61. In or about September of 2006, Lore represented to Eiffel that it maintained a contract for the Lauren Tiee Property which had already obtained conceptual approval for 16 properties which might be available.
60. Having developed a trust relationship with Lore as a result of its dealings with him on the Churchland Assignment, Eiffel was interested in learning about any additional assignments, Lore mentioned another "lucrative" property which he had under contract.
59. On or about the same time Eiffel was negotiating the terms of the Churchland for 17 lots.

THE LAUREN TIEE ASSIGNMENT

58. The Lauren Tiee Contract was conditioned upon the approval of a subdivision for 17 lots.
57. Fairview was represented by Counterclaim-Defendant Carpenter.

Property. The Lauren Tiece Assignment contemplated that Fairview would apply for the responsibility for doing all acts necessary to obtain subdivision approval for the Lauren Tiece 70. Pursuant to the terms of the Lauren Tiece Assignment, Fairview retained full

thirty (30) days of preliminary approval of the subdivision by the planning board.

of the subdivision by the planning board and the second payment was to be made within disbursed to Fairview. The first \$50,000 was due within thirty (30) days of sketch approval 69. The balance of \$100,000 was to be paid in certified funds to Carpenter to be

its title in the contract; and d) that Fairview is incorporated and in good standing.

certification letter from Carpenter confirming that Fairview has not assigned or encumbered contract with all addendums and riders with a copy of the escrow deposit check; c) a escrow account upon the return of a) the executed assignment by the parties; b) a copy of the 68. The \$150,000 was payable as follows: \$50,000 in certified funds to Carpenter's

property of Eiffel.

of \$150,000 and the \$25,000 Fairview had already paid in escrow to the Seller became the 67. Pursuant to the Lauren Tiece Assignment, Eiffel was to pay to Fairview the sum

and Ackert Jr.

66. The Lauren Tiece Assignment was executed on behalf of Fairview by both Lorie

with Fairview ("Lauren Tiece Assignment"), dated September 27, 2006.

65. Based on these representations, Eiffel entered into an assignment agreement

- subdivision.
78. The Clermont Contract proposed that the lot be divided into a 30-lot pursuant to the Clermont Contract, the purchase price was \$1,650,000.
77. Pursuant to the Clermont Contract, (the "Clermont Property").
- the Town of Livingstone, County of Columbia, consisting of approximately 150 acres of land purchaser, for the purchase of vacant property located in both the Town of Claremont, and contract (the "Clermont Contract") with Horizon Real Property Development LLC, as
76. On or about May 26, 2006, Alicia Turk Colins, as seller, entered into a

THE CLERMONT CONTRACT

75. Upon information and belief, no such approval could ever have been obtained.
- must return all deposits immediately to Eiffel.
- subdivision Eiffel could declare the agreement null and void and Fairview and Carpenter
74. In the event that Fairview could not obtain final approval for at least a 17-lot subdivision.
73. Fairview agreed to apply for a 28-lot subdivision.

- by seller's counsel was now the property of Eiffel.
72. Carpenter did not notify the seller's counsel that the escrow deposit being held
71. Carpenter did not notify the seller's counsel of the assignment.
- approval, and ultimately obtain final approval from the Town for a 28-lot subdivision.
- subdivision with the town, retain all engineers, surveyors, etc. necessary to pursue the

Property. The Clermont Assignment contemplated that Horizon would apply for the

responsibility for doing all acts necessary to obtain subdivision approval for the Clermont

86. Pursuant to the terms of the Clermont Assignment, Horizon retained full

with Horizon, dated September 27, 2006 (the "Clermont Assignment").

85. Based on these representations, Eiffel entered into an assignment agreement

Clermont Contracts.

84. Lore represented that it had \$107,500 in escrow between the Lauren Tiec and

subdivision of 42 lots.

83. Horizon provided Eiffel with two maps representing that they could obtain a

subdivision on the Clermont Property, which he maintained under contract as Horizon.

represented that he was advised by his engineer that he could obtain a minimum of a 42-lot

82. The same time Lore told Eiffel about the Lauren Tiec Property, Lore

THE CLERMONT ASSIGNMENT

81. Upon information and belief, no such approval could ever have been obtained.

receiving the return of its down payment.

subdivision, Horizon would have the option of declaring the contract null and void and

80. In the event that Horizon was unable to obtain approval for at least a 30-lot

\$1,235,850.

Horizon to be held in escrow with the balance at closing to be paid in the amount of

79. Upon information and belief, a down payment of \$414,150 was made by

approvals. due within 60 days of receipt of preliminary approval of the subdivision or receipt of all final \$75,000 due within 30 days of receipt of sketch approval and the second payment of \$75,000 93. The balance of \$150,000 was to be paid in certified funds. The first payment of

good standing. escrow account upon a) the return of the executed assignment by the parties; b) a copy of the contract; and c) a certification letter from Carpenter that Horizon was incorporated and in escrow \$300,000 in total. The sum of \$150,000 was to be paid in certified funds to Carpenter's escrow account to the Clemont Assignment, Eiffel was to pay Horizon the sum of

92. Pursuant to the Clemont Assignment, Eiffel wired \$100,000 to be held in escrow by Carpenter.

91. Pursuant to the Clemont Assignment, Eiffel wired \$100,000 to be held in Horizon.

90. The Clemont Assignment was executed by Lore and Ackert Jr. on behalf of Carpenter's escrow account.

89. Based on these representations, Eiffel remitted \$100,000 to be held in by seller's counsel was now the property of Eiffel.

88. Carpenter did not notify the sellers' counsel that the escrow deposit being held 87. Carpenter did not notify the sellers' counsel of the assignment.

approval, and ultimately obtain final approval from the Town for a 42-lot subdivision. subdivision with the town, retain all engineers, surveyors, etc. necessary to pursue the

- evident.
- the Third-Party Defendants and their failure to abide by the terms of the assignments became 100. Shortly after the three assignments were executed, the lack of cooperation by agreements to at all times act in good faith and to further the purposes of the assignments. 99. Fairview, ACK and Horizon had an obligation under the assignment approval process were required to be approved by Eiffel prior to submission. 98. Additionally, the assignment agreements provided that all documents for the by the Third-Party Defendants regarding subdivision approval. copies of all documents submitted to any governmental agencies or any documents received applications made for approval. The agreements further provided that Eiffel would receive Fairview, ACK and Horizon, respectively, to keep Eiffel informed as to the status of all 97. Each of the assignment agreements required the Third-Party Defendants

THE EXECUTION OF THE ASSIGNMENTS THIRD-PARTY DEFENDANTS' CONDUCT FOLLOWING

96. Upon information and belief, no such approval could ever have been obtained. entitled to the return of all of its deposits. lot subdivision then Eiffel could declare the agreement null and void and Eiffel would be 95. In the event that Horizon was not able to obtain final approval for at least a 30- 94. Horizon agreed to apply for an approximately 42-lot subdivision.

- \$100,000 as per the terms of the Churchland Assignment.
- Churchland Road property for 104 building lots.” The letter also requested that Eiffel remit Superior, represented to Eiffel that “the Town of Saugerties has given the go ahead on the 108. Three days later, on or about November 30, 2006, Ackert Jr., on behalf of Carpenter.
107. Based on Ackert Jr.’s representation, Eiffel remitted payment of \$50,000 to the terms of the Lauren Tiece Assignment.
106. In that letter, Ackert Jr. requested that Eiffel remit a check for \$50,000 as per a Saugerties Town Board Meeting the night before.
- represented to Eiffel that Sketch Approval had been obtained for the Lauren Tiece Property at 105. In a letter dated November 27, 2006, Ackert Jr., writing on behalf of Superior, 104. A majority of these demands went ignored by the Third-Party Defendants.
- documentation evidencing the progressing approval process.
- Defendants for information regarding the status of the three assignments and for 103. In the following months, Eiffel made several requests of the Third-Party failed to supply her with any documentation.
102. Eiffel’s numerous requests went ignored by Carpenter however, who repeatedly confirming that \$181,200 was being held in escrow for the Churchland Contracts.
- writing and over the telephone, requesting that Carpenter provide it with documentation 101. Beginning in or about September 2006, Eiffel made numerous requests, in

pursuant to the terms of the assignments, Eiffel paid an additional \$26,195.99 to Carpenter,

117. In addition to the \$350,000.00 the Eiffel paid to Third-Party Defendants

approval from the Town of Saugerties.

116. Upon information and belief, the Churchland Property never obtained sketch

approval from the Town of Saugerties.

115. Upon information and belief, the Lauren Tiece Property never obtained sketch

written receipts of the sketch approval.

114. Despite numerous demands, Third-Party Defendants never provided Eiffel with

Party Defendants.

113. Upon information and belief, this letter was a forgery created by the Third-

the Lauren Tiece Property had received sketch approval.

which purported to be a letter from William Green of the Saugerties Town Board stating that

112. On or about March of 2007, Third-Party Defendants faxed a letter to Eiffel

sketch approval for either of the properties.

111. Third-Party Defendants failed to provide Eiffel with the written receipts of

terms of the assignments.

receipts of the sketch approvals for Lauren Tiece and Churchland Properties as required by the

110. Eiffel requested Third-Party Defendants provide Eiffel with signed written

109. This representation was false.

- subdivision projects contemplated in the Churchland, Lauren Tiec and Clermont 123. Upon information and belief, the Third-Party Defendants knew that the Churchland, Lauren Tiec and Clermont Properties 122. Eiffel paid the Engineers it hired in excess of \$6,400 for their work at the assignments impossible to obtain. in addition to other zoning issues, that made lot subdivisions as contemplated by the 121. The Engineers determined that each of the three properties contained wetlands, assignments were not feasible. Engineers determined that the subdivision plans contemplated in each of the three 120. Upon review of the Churchland, Lauren Tiec and Clermont Properties, the Churchland, Lauren Tiec and Clermont Properties. nature resource consultant company (collectively the "Engineers"), to perform an analysis of surveying, engineering and land planning, and Tonche Timber, a professional forestry and 119. Eiffel hired Leo J. Carroll, P.E., L.S. & Associates, a company specializing in the subdivision process. information to it, Eiffel hired its own engineers to investigate the properties and proceed with diligently proceeded pursuant to the terms of the assignments, and to provide accurate 118. After much frustration over the failure of the Third-Party Defendants to reimbursements. purportedly to pay for the costs for aerial photos for the properties, maps and tax

- had deposited with Carpenter pursuant to those assignments.
- Churchland and Lauren Tiece Assignments and demanded a full refund of the \$250,000.00 it unfeasibility of the subdivision projects, Eiffel notified Lore of its intent to void the 129. In a letter dated April 30, 2007, subsequent to Eiffel's discovery of the total agreements and obtain a full refund of its money.
128. Based on the foregoing, Eiffel was entitled to cancel the three assignment agreements.
- approvals for the subdivisions could never be obtained pursuant to the terms of the 127. Upon information and belief, the Third-Party Defendants knew the conditions and limitations on these properties well and were aware that both preliminary and final Eiffel.
126. Third-Party Defendants deliberately concealed all of this information from developers the properties as contemplated by the assignments.
- existed on the properties which would seriously limit, if not completely destroy, the ability to 125. Upon information and belief, the Third-Party Defendants knew that wetlands agreements.
- impossible to obtain a subdivision for the number of lots set forth in each of the assignments.
124. Upon information and belief, the Third-Party Defendants knew that it would be assignments in August and September of 2006.
- Assignments could not be accomplished as set forth therein, at the time Eiffel entered the

- Third-Party Defendants when entering into the Churchland Assignment.
137. Eiffel reasonably relied upon the material misrepresentations made by the representations were false at the time they were made to Eiffel.
136. Upon information and belief, the Third-Party Defendants knew that these misrepresentations to induce Eiffel to enter into the Churchland Assignment and make subsequent payments thereunder.
135. Upon information and belief, Third-Party Defendants intentionally made these into the Churchland Assignment.
134. Based upon these material misrepresentations and omissions, Eiffel entered set forth herein to induce Eiffel to enter into the Churchland Assignment.
133. Third-Party Defendants made the material misrepresentations and omissions as in paragraphs "I" through "J" as if fully set forth herein.
132. Third-Party Plaintiff repeats and alleges each and every allegation contained sellers' attorneys, which has belonged to Eiffel since the time the assignments were executed.
131. Additionally, they have also thwarted the return of escrow from the original Eiffel's money.
130. To date, the Third-Party Defendants have failed and refused to refund any of
- FIRST CLAIM AGAINST ALL**
THIRD-PARTY DEFENDANTS

payments thereunder.

Third-Party Defendants when entering into the Lauren Tiece Assignment and making

145. Eiffel reasonably relied upon the material misrepresentations made by the

statements were false at the time they were made to Eiffel.

144. Upon information and belief, the Third-Party Defendants knew that these

Assignment and make payments thereunder.

these material misrepresentations to Eiffel to induce it to enter into the Lauren Tiece

143. Upon information and belief, the Third-Party Defendants intentionally made

payment of \$50,000 to Carpenter as per the Lauren Tiece Assignment.

142. Based on these material misrepresentations, Eiffel remitted an additional

Tiece Assignment and remitted payment of \$100,000 to Carpenter.

141. Based upon these material misrepresentations, Eiffel entered into the Lauren

herein to induce Eiffel to enter into the Lauren Tiece Assignment.

140. The Third-Party Defendants made the material misrepresentations referenced

in paragraphs "I" through "138" as if fully set forth herein.

139. Third-Party Plaintiff repeats and alleges each and every allegation contained

THIRD-PARTY DEFENDANTS SECOND CLAIM AGAINST ALL

associated with the attempt to obtain approvals to develop the property.

Defendants, Eiffel has been damaged in the amount of \$100,000 plus \$32,596 for the costs

138. As a result of fraudulent misrepresentations made by the Third-Party

- Eiffel has been damaged in an amount in excess of \$100,000.00.
153. As a result of fraudulent misrepresentations made by Third-Party Defendants, Third-Party Defendants when entering into the Clermont Assignment.
152. Eiffel reasonably relied upon the material misrepresentations made by the statements were false at the time they were made to Eiffel.
151. Upon information and belief, the Third-Party Defendants knew that these make payments thereunder.
150. Upon information and belief, the Third-Party Defendants intentionally made these material misrepresentations to Eiffel to induce it to enter the Clermont Assignment and
149. Based upon these material misrepresentations, Eiffel entered into the Clermont herein to induce Eiffel to enter into the Clermont Assignment.
148. The Third-Party Defendants made the material misrepresentations referenced in paragraphs "I" through "146" as if fully set forth herein.
147. Third-Party Plaintiff repeats and alleges each and every allegation contained in the Third-Party Defendants' material misrepresentations to Eiffel to induce it to enter into the Clermont Assignment.

THIRD-PARTY DEFENDANTS
THIRD CLAIM AGAINST ALL

- for the costs associated with the attempt to obtain approvals to develop the property.
- Defendants, Eiffel has been damaged in the amount in excess of \$150,000.00, plus \$32,596
146. As a result of fraudulent misrepresentations made by the Third-Party

- result of ACK's breaches and its failure to proceed with the approval process.
159. All expenses incurred by Eiffel in hiring the Engineers are costs incurred as a result of ACK's breaches and its failure to proceed with the approval process.
158. All legal fees incurred by Eiffel in furtherance of its claims are costs incurred as a result of ACK's breaches and its failure to proceed with the approval process.
157. In breach of the Churchland Assignment, ACK failed to proceed diligently and in good faith with the approval process on the Churchland Properties.
156. In addition to the above, the Assignment provided that; "if the Assignor did not pursue with the entire approval process for the subdivisions, then the Assignee may, declare this Assignment null and void and all payments made here under shall be refunded to the Assignee immediately upon request and the Assignor shall also reimburse the Assignee for any costs incurred as a result, but not necessarily limited to legal fees and court costs and/or judgments".

155. ACK breached the terms of the Churchland Assignment by failing to proceed in good faith with the subdivision process pursuant to the terms of the assignment and refusing to refund Eiffel's \$100,000.00 deposit after it received notice of cancellation from Eiffel.

154. Third-Party Plaintiff repeats and alleges each and every allegation contained in paragraphs "I" through "153" as if fully set forth herein.

**FOURTH CLAIM AGAINST
ACK LAND DEVELOPMENT, LLC.**

- rescinded.
166. As a result of ACK's breach, the Churchland Assignment should be quo among the parties thereto.
165. Rescission of the Churchland Assignment will substantially restore the status Churchland Assignment.
164. Eiffel does not have an adequate remedy at law for ACK's breach of the due to the conditions of and restrictions on the property.
163. The condition of the Churchland Assignment could never have been fulfilled lots.
- and allowed Eiffel to declare the agreement null and void if it did not obtain approvals for 60
162. The Churchland Assignment required ACK to apply for a 120-lot subdivision in paragraphs "I" through "160" as if fully set forth herein.
161. Third-Party Plaintiff repeats and alleges each and every allegation contained
- ACK LAND DEVELOPMENT, LLC.**
EIFFEL CLAIM AGAINST
- expenses Eiffel will incur in furtherance of its claim in an amount to be determined at trial.
- attempt to obtain approvals to develop the property, plus the attorneys' fees, costs and
- damaged in an amount in excess of \$100,000, plus \$32,596 for the costs associated with the
160. As a result of ACK's breach of the Churchland Assignment, Eiffel has been

been damaged in an amount in excess of \$150,000, plus \$32,596 for the costs associated with

173. As a result of Fairview's breach of the Lauren Tiece Assignment, Eiffel has

result of Fairview's breaches and its failure to proceed with the approval process.

172. All expenses incurred by Eiffel in hiring the Engineers are costs incurred as a

as a result of Fairview's breaches and its failure to proceed with the approval process.

171. All legal fees incurred by Eiffel in furtherance of its claims are costs incurred

and in good faith with the approval process on the Lauren Tiece Property.

170. In breach of the Lauren Tiece Assignment, Fairview failed to proceed diligently

court costs and/or judgments".

the Assignee for any costs incurred as a result, but not necessarily limited to legal fees and

be refunded to the Assignee immediately upon request and the Assignor shall also reimburse

Assignee may, declare this Assignment null and void and all payments made hereunder shall

Assignor did not pursue with the entire approval process for the subdivisions, then the

169. In addition to the above, the Lauren Tiece Assignment provided that: "if the

refund Eiffel's \$100,000 deposit after it received notice of cancellation from Eiffel.

proceed with the subdivision process pursuant to the terms of the assignment and refusing to

168. Fairview breached the terms of the Lauren Tiece Assignment by failing to

in paragraphs "I" through "L" as if fully set forth herein.

167. Third-Party Plaintiff repeats and realleges each and every allegation contained

FARVIEW BLOCK & SUPPLY CORP.
SIXTH CLAIM AGAINST

in paragraphs „I“ through „I79“ as if fully set forth herein.

Third-Party Plaintiff repeats and re-alleges each and every allegation contained in ¶ 80.

HORIZON REAL PROPERTY DEVELOPMENT, LLC

rescinded.

As a result of Fairview's breach, the Lauren Tiece Assignment should be

quo among the parties thereto.

Rescission of the Laureen Tiece Assignment will subsequently restore the status

Lauren Tiece Assignment.

Eiffel does not have an adequate remedy at law for *Fairview's* breach of the 177.

due to the conditions of and restrictions on the property.

The condition of the Lauren Tiee Assumption could never have been fulfilled.

approval for 17 lots.

subdivision and allowed fifth to declare the agreement null and void if it did not obtain

175. The Lauren Tie Assigment required Fairview to apply for a 28-lot

in paragraphs „I“ through „173“ as if fully set forth herein.

Third-Party Plaintiff repeats and re-alleges each and every allegation contained in Paragraph 74.

FARVIEW BLOCK & SUPPLY CORP

expenses. Eiffel will incur in furtherance of its claims in an amount to be determined at trial.

the attempt to obtain approvals to develop the property, plus the attorney's fees, costs and

expenses Eiffel will incur in furtherance of its claims in an amount to be determined at trial.

attempt to obtain approvals to develop the property, plus the attorneys' fees, costs and

damaged in an amount in excess of \$100,000, plus \$32,596 for the costs associated with the

186. As a result of Horizon's breach of the Clermont Assignment, Eiffel has been

result of Horizon's breaches and its failure to proceed with the approval process.

185. All expenses incurred by Eiffel in hiring the Engineers are costs incurred as a

as a result of Horizon's breaches and its failure to proceed with the approval process.

184. All legal fees incurred by Eiffel in furtherance of its claims are costs incurred

in good faith with the approval process on the Clermont Property.

183. In breach of the Clermont Assignment, Horizon failed to proceed diligently and

court costs and/or judgments".

the Assignee for any costs incurred as a result, but not necessarily limited to legal fees and

be refunded to the Assignee immediately upon request and the Assignor shall also reimburse

Assignee may, declare this Assignment null and void and all payments made hereunder shall

Assignor did not pursue with the entire approval process for the subdivisions, then the

182. In addition to the above, the Clermont Assignment provided that: "if the

Eiffel's \$100,000 deposit after it received notice of cancellation from Eiffel,

with the subdivision process pursuant to the terms of the assignment and refusing to refund

181. Horizon breached the terms of the Clermont Assignment by failing to proceed

as provided by law;

the costs associated with the attempt to obtain approvals to develop the property, plus interest

1) on its first cause of action, an amount in excess of \$100,000, plus \$32,596 for

demands judgment on Eiffel's Third Party claims:

WHEREFORE, Third-Party Plaintiff Eiffel Investment Group and Associates LLC,

193. Eiffel hereby demands a trial by jury of all issues so triable.

JURY TRIAL DEMANDED

192. As a result of Horizon's breach, the Cleermont Assignment should be rescinded.

among the parties thereto.

191. Rescission of the Cleermont Assignment will substantially restore the status quo

Cleermont Assignment.

190. Eiffel does not have an adequate remedy at law for Horizon's breach of the

due to the condition of and restrictions on the property.

189. The conditions of the Cleermont Assignment could never have been fulfilled

subdivision.

and allowed Eiffel to declare the agreement null and void if it did not get at least a 30-lot

188. The Cleermont Assignment required Horizon to apply for a 42-lot subdivision

in paragraphs "I" to "187" as it fully set forth herein.

187. Third-Party Plaintiff repeats and realleges each and every allegation contained

HORIZON REAL PROPERTY DEVELOPMENT, LLC
NINTH CLAIM AGAINST

- to be determined at trial, plus statutory interest as provided by law; and attorneys' fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount the costs associated with the attempt to obtain approvals to develop the property, plus the attorney's fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount on its eighth cause of action, an amount in excess of \$100,000, plus \$32,596 for 8) on its seventh cause of action, rescission of the Lauren Tiece Assignment;
- to be determined at trial, plus interest as provided by law;
- attorneys' fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount the costs associated with the attempt to obtain approvals to develop the property, plus the attorney's fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount on its sixth cause of action, an amount in excess of \$150,000, plus \$32,596 for 6) on its fifth cause of action, rescission of the Churchland Assignment;
- to be determined at trial, plus interest as provided by law;
- attorneys' fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount the costs associated with the attempt to obtain approvals to develop the property, plus the attorney's fees, costs and expenses Eiffel will incur in furtherance of its claims in an amount on its fourth cause of action, an amount in excess of \$100,000, plus \$32,596 for 4) on its third cause of action, an amount in excess of \$100,000, plus interest as provided by law;
- interest as provided by law;
- for the costs associated with the attempt to obtain approvals to develop the property, plus on its second cause of action, an amount in excess of \$150,000, plus \$32,596 2)

DATED: July 6, 2007
Melville, New York

on its ninth cause of action, rescission of the Clermont Assignment.

9)

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